

COMMITTEE REPORT

Date: 10 January 2013 **Ward:** Guildhall
Team: City Centre **Parish:** Guildhall Planning Panel
Management

Reference: 12/02802/FUL
Application at: Lendal Cafe 2A Lendal York YO1 8AA
For: Change of use of York Antique Centre (Class A1) to restaurant (Use Class A3) with installation 3 no. condenser units at rear.
By: Mr Kaya And Mr Broome
Application Type: Full Application
Target Date: 12 October 2012
Recommendation: Approve

1.0 PROPOSAL

1.1 This application seeks planning permission for a change of use of a currently vacant retail unit (Use Class A1) to a restaurant use (Use Class A3) at 2A Lendal.

CONTEXT

1.2 The proposals relate to a change of use of part of the ground floor and basement of the former Congregational Chapel building from the former York Antique Centre to a restaurant use. The property is a Grade II Listed Building, originally forming part of a Congregational Chapel designed by J P Pritchett in 1816, and converted and altered in 1929. It is situated in Central Historic Core Conservation Area No. 1. The neighbouring buildings are listed, and the rear of the building contributes to the historic building aspect of the River Ouse between Lendal Bridge and the Guildhall complex. The remainder of the building is in restaurant use, and the building forms part of a mixed leisure/ retail/commercial area on an approach to the heart of the City Centre. The alleyway between the Graduate and ZiZi's gives vehicular and pedestrian access to the rear of the building, and to two residential properties within the Graduate building.

APPLICATION DETAILS

1.3 The main restaurant area would be provided in the basement and a seating and bar area would be formed on the ground floor. The business would create 10 full-time and 5 part-time jobs, and result in 183 square metres of vacant retail space being used as a restaurant. It would open from 12:00-24:00 hours, with no new diners admitted after 22:00 hours.

1.4 The detailed internal alterations associated with the change of use are considered in the companion application for listed building consent.

1.5 Revised plans have been received proposing an internal mechanical ventilation/ extraction system. This would replace the originally proposed system that would have required an additional kitchen flue adjacent to an existing flue on the side elevation of the building. It requires two windows in the side elevation of the building to be altered to accommodate louvres and 3 No. air condenser units are proposed on the rear elevation in an enclosed yard. It is intended that commercial waste would consist of plastic bags put out immediately prior to collection in a side passageway.

RELEVANT PLANNING HISTORY

1.6 Planning permission was granted for the change of use of existing ground floor shop and basement stores into restaurant, internal alterations, and new ground floor front elevation in 1979 (7/00/2267PA) . In 1983, planning permission was granted for the change of use of part of the ground floor coffee house cafe to retail shop (7/00/2267EPA).

1.7 The first floor of the building was changed from retail to a pool and games room in 1989 (7/05/2667T/PA) and then to a restaurant in 2001 (01/02274/FUL). A further planning permission was granted for the erection of a covered escape stairwell to the rear with internal and external alterations (02/00912/FUL) that included the existing flue on the side elevation of the building.

1.8 The related application for listed building consent is also presented to Members at this meeting (Ref. 12/ 02803/LBC).

1.9 The application has been brought to Committee at the request of Cllr Watson due to concerns relating to the loss of retail businesses in this part of the City Centre.

2.0 POLICY CONTEXT

2.1 Development Plan Allocation:

Areas of Archaeological Interest GMS Constraints: City Centre Area 0006

Conservation Area GMS Constraints: Central Historic Core CONF

City Boundary GMS Constraints: York City Boundary 0001

DC Area Teams GMS Constraints: Central Area 0002

Listed Buildings GMS Constraints: Grade 2; 8 Lendal York YO1 2AA 0618

Listed Buildings GMS Constraints: Grade 2; 2 Lendal York YO1 2AA 0619

2.2 Policies:

CYHE4-Listed Buildings
CYHE3-Conservation Areas
CYS6-Control of food and drink (A3) uses
CYGP1-Design
CYGP4A-Sustainability

3.0 CONSULTATIONS

INTERNAL

3.1 Design, Conservation and Sustainable Development- No objection to the revised proposals subject to conditions. Please refer to the associated listed building application (12/02803/LBC) for more detailed comments.

3.2 Environmental Protection Unit- Comments awaited on revised system.

EXTERNAL

3.3 Guildhall Planning Panel - Objects to the further loss of retail floor space and consider York cannot afford to lose anymore retail space, and further restaurants and coffee houses should be discouraged.

4.0 APPRAISAL

4.1 Key issues:

- Impact of change of use, including loss of retail and impact on the vitality and viability of the area and the City Centre
- Amenity of surrounding occupants
- Impact on heritage assets - the listed building and the Central Historic Core conservation area.

PLANNING POLICY CONTEXT

National Policy Guidance

4.2 The National Planning Policy Framework has a stated presumption in favour of sustainable development. Relevant specific policy topics include ensuring the vitality of town centres, conserving and enhancing the historic environment, and encouraging good design.

Local Planning Policy

4.3 The Development Control Local Plan was approved for Development Control purposes in April 2005: its policies are material considerations where they reflect the National Planning Policy Framework. The relevant policies are;

4.4 Policy GP1 'Design' of the City of York Council Development Control Local Plan includes the expectation that development proposals will, inter alia; respect or enhance the local environment; be of a density, layout, scale, mass and design that is compatible with neighbouring buildings and spaces, ensure residents living nearby are not unduly affected by noise, disturbance, overlooking, overshadowing or dominated by overbearing structures.

4.5 Policy HE3 'Conservation Areas' states that within conservation areas, proposals for the following types of development will only be permitted where there is no adverse effect on the character and appearance of the area: demolition of a building (whether listed or not); external alterations; changes of use which are likely to generate environmental or traffic problems.

4.6 Policy HE4 'Listed Buildings' states that consent will only be granted for the following types of development where there is no adverse effect on the character, appearance or setting of the building: development in the immediate vicinity of listed buildings; demolition; internal and external alterations; change of use; erection of satellite antenna.

4.7 Policy S6 'Control of Food and Drink Uses' states that planning permission for the extension, alteration or development for food and drink uses will be granted providing: any likely impact on the amenities of the surrounding occupiers as a result of traffic, noise, smell or litter would be acceptable; the opening hours of hot food takeaways and premises where alcohol is consumed are to be restricted where this is necessary to protect the amenity of surrounding occupiers; car and cycle parking meets the standards outlined in Appendix E; acceptable external flues and means of extraction have been proposed; and security issues where consumption of alcohol is involved have been addressed.

ASSESSMENT

Land Use

4.8 The premises are presently vacant and to bring the buildings back into use would be compliant with the National Planning Policy Framework which seeks to promote City Centres and enhance their vitality and viability. The thrust of local plan policies also steer commercial and leisure developments to previously developed land/buildings within defined City Centres.

4.9 It is appreciated that the premises have a number of physical constraints that limit their potential use. The part ground floor and basement which form the unit, has a narrow street frontage with limited retail presence. The interior is on two levels which limits access for all. Although previously in retail use, it is located at the edge of the shopping centre and does not form part of the main shopping centre as a designated shopping street. The building has a history as a restaurant use when planning permission was granted for a restaurant use in 1979 (7/00/2667PA).

4.10 Evidence has been provided by the agent that indicates that since the closure of the premises in early 2011, retail interest in the unit has been poor, and most of the enquiries have been for food/ drink/ leisure uses. Apparently the previous use was maintained due to low rental levels and support from individual traders to finance the rent. The traders gradually moved elsewhere as business was poor in this location. The building would appear to have little attraction and potential as an A1 use and the proposed use would not detract from the main retail function of the City Centre or existing retail uses on Lendal.

4.11 The proposed restaurant use would be compatible with and compliment the existing restaurant within the building. The conversion of vacant premises to an A3 use would add to the vitality and viability of the City Centre in land use terms with a vibrant City Centre use in a sustainable location. The principle of the proposed A3 use would therefore be compatible with Policy S6 that seeks to support the introduction of new A3 food and drink uses provided there would be no harm to other material considerations.

The amenity of surrounding occupants

4.12 The proposed restaurant use would be situated in a part of the City Centre where there higher ambient noise levels. The original extraction from the kitchen proposed a large external flue on the side of the building adjacent to the existing flue for Zizi's. This plan has been superseded by a proposal to use an internal attenuation system with air intake and output via louvred openings in existing windows in the side elevation.

4.13 The building is surrounded by largely in office/ commercial uses, however there is a doorway to a flat above The Graduate (4 Lendal) adjacent which could be affected by the proposed mechanical extraction/ventilation equipment. The door to No. 4a would be opposite the proposed intake and extraction louvres in the side elevation. Comments from the Environmental Protection Unit with respect to this system are awaited and Members will be updated at the meeting.

4.14 It is noted that the alleyway is wide enough to give vehicular access, the building mass at No 2 and 2A reduces to single storey just beyond the doorway, and there are a number of similar uses in the area resulting in a degree of ambient odours not atypical of the City Centre.

It is unlikely that the working/living conditions of the occupiers of the nearby properties would be adversely affected by noise from the additional restaurant use if a modern, efficient, effective system is installed.

4.15 The proposed ventilation equipment at the rear of the building is located in a landlocked courtyard distant from the nearby residential property. Any noise breakout from the restaurant use would be limited to the entrance area as the restaurant appears to have sealed windows. The proposed restaurant operating hours would be limited to 12:00-24:00 hours, with no additional diners admitted after 22:00. It is unlikely that noise and disturbance levels from the use would be excessive given the existing uses in the area and the limited levels of residential accommodation. The intended waste arrangements using sacks put out prior to collection in the private side passageway would not affect other users or the public. It is therefore concluded that there would be no conflict with the amenity requirements of Policy GP1 and S6 of the Local Plan.

Impact on Heritage Assets

4.16 Lendal forms part of the historic core of the City Centre and is a popular cut-through route for pedestrians in the City Centre. The area provides for largely leisure uses, with some retail use. There are a number of restaurants and public houses that are open in the evening to similar opening hours and it is considered that an additional restaurant use would not result in an over-concentration of such uses within the area that would detrimentally affect its mixed City Centre character. The appearance of the conservation area would not be affected by the use the use would be physically contained within the building with the exception of air handling units visually enclosed at the rear. There would be no conflict with Policy HE3 of the Local Plan.

4.17 The full assessment of internal alterations is considered in the accompanying application for listed building consent. In principle, the re-glazing of the windows, insertion of suspended ceilings and window louvres, would be acceptable subject to suitable details.

5.0 CONCLUSION

5.1 It is considered that the re-use of part of the ground floor and basement as a restaurant would secure a viable economic use for this part of the Listed Building which is currently vacant. It is an improvement to the urban fabric of the city that would enhance the historic environment; would provide additional employment opportunities, would benefit the range of leisure facilities for residents and tourists in a sustainable location, and could be provided without harmful environmental problems. The loss of retail use of the premises would not significantly detract from the quality of retail provision within the City Centre.

It is therefore concluded that there is no conflict with policies GP1, HE3, HE4, S6, of the Local Plan and national planning guidance contained in the National Planning Policy Framework.

COMMITTEE TO VISIT

6.0 RECOMMENDATION: Approve

1 TIME2 Development start within three years -

2 The development hereby permitted shall be carried out in accordance with the following plans and other submitted details:-

Drawing No. 0614/03 , Revision B, Received 18.12.2012

Drawing No. 0614/03 , Revision A, Received 16.08.2012

Drawing No. 0614/05 , Revision C, Received 3.12.2012

Wards Drawing Nos. 041609, Revision A, Received 3.12.2012

Reason: For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority.

3 All waste and recycling shall be stored inside the building except for immediately prior to collection as confirmed in Raymond Barnes letter dated 29 November 2012.

Reason: In the interests of the appearance of the conservation area and the environmental qualities of the street in accordance with policy GP1 of the Development Control Local Plan.

7.0 INFORMATIVES:- Notes to Applicant

1. REASON FOR APPROVAL

In the opinion of the Local Planning Authority the proposal, subject to the conditions listed above, would not cause undue harm to interests of acknowledged importance, with particular reference to the vitality and viability of the City Centre; the character and appearance of the Central Historic Core Conservation Area; and the amenity of surrounding residents. As such the proposal complies with Policies GP1, S6, and HE3 of the City of York Development Control Local Plan (2005) and national planning guidance contained in the National Planning Policy Framework (2012).

In considering the application, the Local Planning Authority has implemented the requirements set out within the National Planning Policy Framework (paragraphs 186 and 187) in seeking solutions to problems identified during the processing of the application. The Local Planning Authority took the following steps in order to achieve an acceptable outcome:

- Site meeting with agent, applicant and Council officials on 10 October 2012 following receipt of application
- Agreed revisions to the internal mechanical extraction system and omitting the proposed external flue and the effectiveness of the system to prevent harm to amenity levels
- Agreed additional details of the proposed internal arrangement and treatment of windows
- Consideration of the marketing evidence that demonstrates to lack of interest other than by A3/A4 users in assessing the loss of A1 retail use

2. CONTROL OF POLLUTION ACT INFORMATIVE:

3. COUNCIL'S EMERGING LOW EMISSION STRATEGY INFORMATIVE

Contact details:

Author: Fiona Mackay Development Management Officer (Wed - Fri)

Tel No: 01904 552407